IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 24504 of 2007(P)

OS.389/2004 of MUNSIFF COURT, PARAVUR
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PETITIONER:

P.MURENDRAN,AGED 45 YEARS,
S/O. PADMANABHA KURUP,KANNAMPARAMBIL HOUS,E
POTTEN STREET,
NORTH PARAVUR.

BY ADV. SRI.P.K.SAJEEV

RESPONDENT:

KERALA VYAPARI VYAVASAYI EKOPANA
SAMITHI,NORTH PARAVUR UNIT,REPRESENTED BY ITS
GENERAL SECRETARY,RAVI SIVARAM,S/O.SIVARAMA PILLAI
POKKATTU VEEDU,PARAVUR VILLAGE,PARAVUR TOWN.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.24504 OF 2007

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Dated this the 13th day of August 2007

JUDGMENT

This writ petition is preferred against the order of the Munsiff's Court, North Paravur in E.P.No.301 of 2006 in O.S.No.389 of 2004. The judgment debtor was ordered to be arrested on his failure to pay the decree amount. Learned counsel for the petitioner submits that the court has not considered regarding the means and so the order is vitiated.

2. A perusal of the records would reveal that on an earlier occasion the judgment debtor has agreed to pay Rs.3,000/- per month and the E.P. was closed. A nominal payment was made thereafter. No counter affidavit was filed and there is no contention that there is change of circumstances after the disposal of the first E.P.

3.Therefore I find that there is really no plea that the petitioner has no means. The factum of evasion of payment is also proved by his conduct. Therefore, on merits, really there is nothing to interfere. But the learned counsel for the petitioner very persuasively submits that his client is prepared to pay the amount provided some breathing time is given.

Therefore the writ petitioner is directed to pay a sum of Rs.10,000/-(rupees ten thousand only) on or before 13.9.2007 and the balance amount in six equal monthly instalments commencing from 13.10.2007. If there is default in payment of two consecutive instalments the writ petitioner will loose the benefit conferred under this judgment and the decree holder can request the court to issue warrant and commit him in civil prison.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-